

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
)  
-vs- ) Case No. CR-04-114-F  
)  
MELVIN ELLIS HOLLY, )  
)  
Defendant. )

Before the court is defendant's "Motion for 'Free' Transcript Jury Section of Jury Instruction by the Judge," filed January 18, 2011 (doc. no. 141). In his motion, defendant requests a free copy of the transcript of the jury instructions given by the court before his criminal trial. Upon review of the motion, the court finds no response from plaintiff is required.

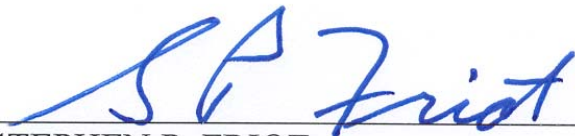
Under 28 U.S.C. § 753(f), an indigent defendant is entitled to have the government pay the fees for a copy of his transcript in a 28 U.S.C. § 2255 proceeding if he demonstrates that his suit is not frivolous and that the transcript is needed to decide the issue presented by the suit. Sistrunk v. U.S., 992 F.2d 258, 259 (10<sup>th</sup> Cir. 1993).<sup>1</sup> In his motion, defendant does not reference any specific claims or issues that

Fees for transcripts furnished in proceedings brought under section

he intends to address on appeal or to pursue in a § 2255 motion. He simply states that he is indigent, that he cannot afford to pay the cost and that the transcripts are public records. The Tenth Circuit has expressly stated, however, that “[c]onclusory allegations . . ., without more, do not satisfy the requirements of § 753(f).” Sistrunk, 992 F.2d at 259. Because defendant has failed to make the particularized showing required by § 753(f), the court concludes that defendant’s request for a free copy of the requested transcript should be denied.

Accordingly, defendant’s “Motion for ‘Free’ Transcript Jury Section of Jury Instruction by the Judge,” filed January 18, 2011 (doc. no. 141), is **DENIED**.

Entered this 19<sup>th</sup> day of January, 2011.

  
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STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE

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2255 of this title to persons permitted to sue or appeal in forma pauperis shall be paid by the United States out of money appropriated for that purpose if the trial judge or circuit judge certifies that the suit or appeal is not frivolous and that the transcript is needed to decide the issue presented by the suit or appeal.